

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DELOITTE & TOUCHE LLP,

Plaintiff,

v.

WM HIGH YIELD FUND, et al.,

Defendants.

Case No. 05-MC-40009
Judge F. Dennis Saylor, IV

Case pending in the United
United States District Court
of Pennsylvania
C.A. No. 04-CV-3423

**PLAINTIFFS' RESPONSE TO DELOITTE & TOUCHE LLP'S MOTION TO
QUASH SUBPOENA *DUCES TECUM* OR IN THE ALTERNATIVE FOR A
PROTECTIVE ORDER**

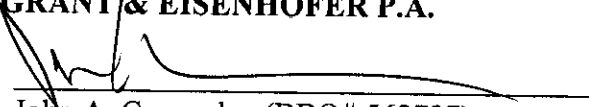
The subpoena *duces tecum* that is the subject of Deloitte & Touche LLP's ("Deloitte & Touche") motion was issued in connection with a securities litigation action (the "DVI Securities Litigation Action") pending in the District Court for the Eastern District of Pennsylvania, in which Deloitte & Touche is a defendant. For the reasons set forth below, the Court does not need to resolve this motion at the present time. The securities case arises out of an alleged massive fraud at DVI, Inc. ("DVI"). After certain of Plaintiffs' claims against Deloitte & Touche survived Deloitte & Touche's motion to dismiss, Plaintiffs propounded discovery requests to Deloitte & Touche and issued a separate subpoena *duces tecum* to Dennis J. Buckley, the Trustee of the DVI Liquidating Trust. Mr. Buckley's office is located in this district. The subpoena seeks, among other things, documents that Deloitte & Touche produced to the Trustee or his predecessors in DVI's bankruptcy proceedings pursuant to Bankruptcy Rule 2004. Deloitte & Touche filed in this Court a motion to quash the subpoena to the Liquidating Trustee, or alternatively, a motion for a protective order.

In the DVI Securities Litigation Action, the U.S. Attorney's Office for the Eastern District of Pennsylvania filed a motion to stay the proceedings. The District Court for the Eastern District of Pennsylvania granted that stay by Order dated May 31, 2005 (the "Stay Order"). *See* Order attached hereto as Exhibit "A". Plaintiffs' discussions with the U.S. Attorney's Office to modify the scope of the requested stay of the proceedings are ongoing. Accordingly, by subsequent Order dated June 6, 2005, the District Court for the Eastern District of Pennsylvania ordered the parties to file any stipulations to alter or amend the Stay Order on or before June 20, 2005. *See* Order attached hereto as "Exhibit B".

In light of the present status of the Stay Order, Plaintiffs respectfully request that this Court defer ruling on Deloitte & Touche's motion and provide Plaintiffs ten (10) days from such time as the stay of Plaintiffs' action is lifted, amended or modified to respond to Deloitte & Touche's motion. Plaintiffs' counsel has communicated with Deloitte & Touche's counsel and is authorized to represent that Deloitte & Touche does not oppose Plaintiffs' request to defer a ruling on Deloitte & Touche's motion as requested herein.

Submitted this 9th day of June 2005.

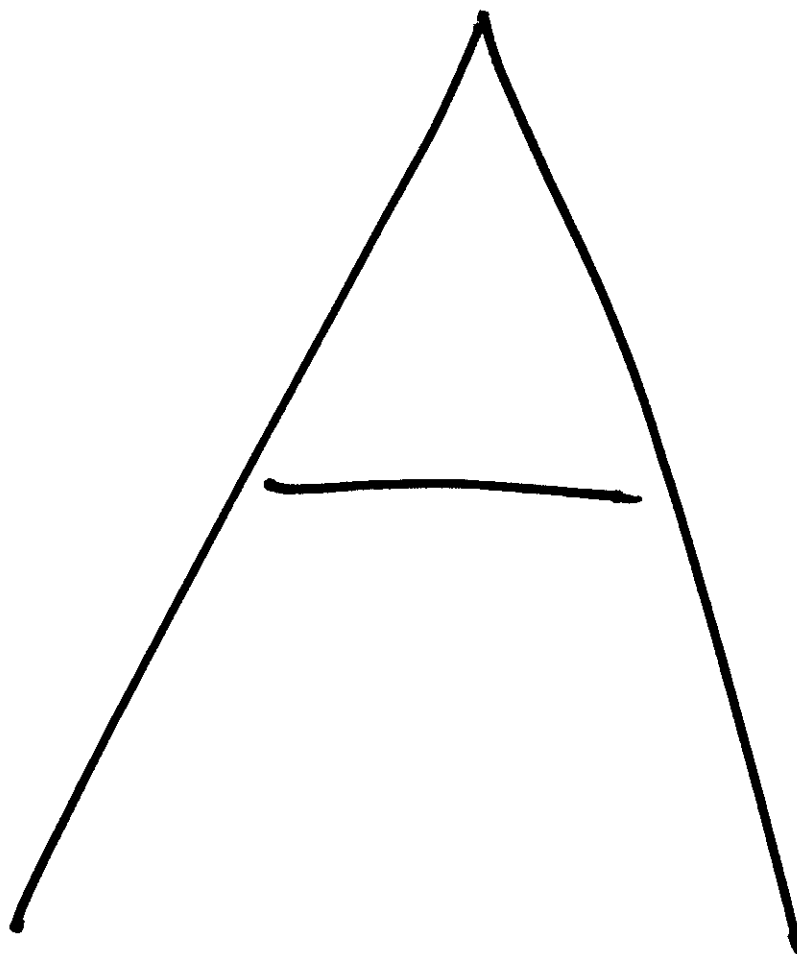
GRANT & EISENHOFER P.A.



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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WM HIGH YIELD FUND, et al.,	:	CIVIL ACTION
Plaintiffs,	:	
	:	
v.	:	
	:	
MICHAEL A. O'HANLON, et al.,	:	NO. 04-3423
Defendants.	:	

ORDER

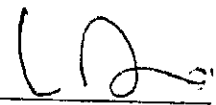
AND NOW, this 31st day of May, 2005, upon consideration of the United States' Motion to Stay Proceedings (Doc. No. 115), filed May 17, 2005, it is hereby ORDERED that the Motion is GRANTED.

It is further ORDERED that:

1. This matter shall be stayed for all purposes for **120 days** pending completion of the ongoing investigation by the United States Attorney's Office and the Federal Bureau of Investigation;
2. The United States shall advise the parties and the Court at the expiration of this stay, in writing, as to the status of the investigation;
3. The Clerk of Court shall mark this action closed for statistical purposes and place the matter in the Civil Suspense File pending further notification; and
4. The Court shall retain jurisdiction; and the case shall be restored to the trial docket when the action is in a status so that it may proceed to final disposition; this order shall not prejudice the rights of the parties to this litigation.

BY THE COURT: ENTERED

JUN - 3 2005



Legrome D. Davis, J.

B

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

WM HIGH YIELD FUND, et al., Plaintiffs,	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
MICHAEL A. O'HANLON, et al., Defendants.	:	NO. 04-3423
	:	

ORDER

AND NOW, this 6th day of June, 2005, it is hereby ORDERED as follows:

1. any stipulations to alter or amend the Court's Order of May 31, 2005, staying this matter (Doc. No. 122), shall be submitted on or before June 20, 2005;
2. any such stipulation shall be by agreement of all parties as well as the United States Attorney's Office; and
3. any proposed modification of the stay shall not interfere with the pending criminal investigation nor prejudice the rights of the Defendants in any way.

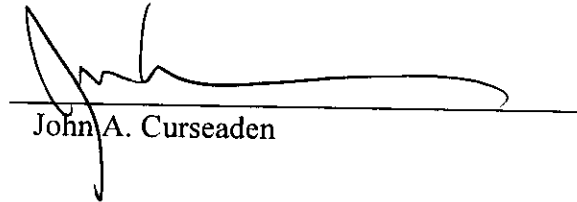
It is further ORDERED that Plaintiffs' Motion for Extension of Time (Doc. No. 120), filed June 2, 2005, is DENIED AS MOOT.

BY THE COURT:

/s/
Legrome D. Davis, J.

CERTIFICATE OF SERVICE

I, John A. Curseaden, hereby certify that I have caused a true and correct copy of
Plaintiffs' Response To Deloitte & Touche LLP's Motion To Quash Subpoena Duces Tecum
Or In The Alternative For A Protective Order to be sent this 10th day of June 2005 to the
following parties by First Class U.S. Mail, postage prepaid:



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Case No. 05-MC-40009
Judge F. Dennis Saylor, IV

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of Pennsylvania
C.A. No. 04-CV-3423

ORDER

AND NOW, this ____ day of _____ 2005, upon consideration of Deloitte & Touche LLP's Motion to Quash Subpoena *Duces Tecum* Issued to Dennis J. Buckley, Trustee of the DVI Liquidating Trust, Or In the Alternative, Motion for Protective Order, and memorandum of law in support thereof ("Deloitte's Motion"), and Plaintiffs' response thereto, it is hereby ORDERED that Plaintiffs shall file a response to Deloitte's Motion ten (10) days after the United States District Court for the Eastern District of Pennsylvania lifts, amends or modifies its stay order dated May 31, 2005 in case no. 04-CV-3423 pending in the Eastern District of Pennsylvania.

BY THE COURT:

J.